

# Quid Novi

VOL. V NO. 24

McGILL UNIVERSITY FACULTY OF LAW  
FACULTE DE DROIT UNIVERSITE MCGILL

April 3, 1985  
3 avril 1985

## ZUNDEL: THE AFTERMATH

by Marcel Banasinski

On March 26 Professor Irwin Cotler spoke at the McGill Law Faculty about the Zundel trial. The lecture was sponsored by the McGill branch of the International Human Rights Advocacy Law Group, in co-operation with Censor Watch and the Criminal Law Group.

### "Did Six Million Really Die?"

Ernst Zundel was found guilty of "knowingly spreading false news", contrary to section 177 of the Criminal Code. He was convicted for publishing a booklet -- Did Six Million Really Die? -- which dismissed the Second World War genocide of Jews as a hoax and a Zionist conspiracy to extract reparations from Germany. On March 25 Ernst Zundel was sentenced by Judge Hugh Locke to 15 months in prison. He was also placed on probation for three years following completion of his sentence and prohibited from publishing anything on the Holocaust during his probation or parole.

### Cotler: Renowned Civil Libertarian

Professor Cotler is a fervent and world renowned civil libertarian, who acted as counsel for the intervenants in the Rauca case and is presently the Canadian representative on the Board of the International Holocaust and Human Rights Project based at the

Harvard Law School. The project was founded to deal with, inter alia, Holocaust denial litigation. He attended the Zundel trial and is in the process of writing a book on the case.

### Canadian Court Used as Holocaust Denial Platform

Professor Cotler began his speech by expressing his indignation and outrage that Canada is the only country in the world where a court could be used for seven weeks as an international forum for Holocaust denial litigation.

He was incensed with the "Orwellian atmosphere" of the trial. On the 40th anniversary of the Holocaust he found it inconceivable that people could still deny that it had ever occurred. He denounced the assertions made by Zundel's counsel that Auschwitz was not a death camp; that it was a "place where people danced and dined" and participated in swimming events, that the barbed wire fences were not to keep the "party-goers" in

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## Morgentaler Warmly Received

by Andrew Orkin

Henry Morgentaler is a physician with 20,000 abortion procedures to his name. The largest Leacock auditorium was packed long before the Montreal doctor arrived to speak at McGill last week.

"This city is an oasis of sanity," he began to loud applause, arms aloft in a Victory pose. "It's good to be back home." If Morgentaler's opponents were there, they were quiet. The doctor's public appearances have been noisy clashes between opponents and supporters of his single-minded disobedience campaign to change Canada's law on abortion.

my clinic in Manitoba. As expected, I was arrested." Morgentaler was not always an abortionist. he was a GP in Montreal in 1955. "I saw whole wards of women with backstreet botched abortions. I saw haemorrhages, infections, hysterectomies, sterility and death. But to question was a taboo."

Question he did in 1967. He made a brief to Parliament for reform, and was immediately besieged by "desperate women". He turned them away until 1968, when one woman died. With nowhere else to go for an abortion, she had pumped air into her uterus with a bicycle pump.

"Last week I re-opened

Cont'd on p. 5

# ANNOUNCEMENTS

The following students are requested to come to the Student Affairs office sometime during the week of April 1:

## Sixth Term Essay Students

Abramowicz, Alan  
Ciarallo, Mark  
De Stefano, Corrado  
Friedman, Philip  
Goossen, Richard  
Guay, Hélène  
Halickman, Clifford  
Hobart, Michael  
Horwood, Robert  
Laroche, Kevin  
Luther, Lori  
Marchessault, Claude  
McCrea, Grant  
Mullens, Mary  
Pinheiro, Gayle  
Richmond, Charles  
Roher, Eric  
Rosenbloom, Rosalie  
Rosenfeld, Erika  
Ryan, Timonthy  
Schneidman, Brian  
Sterling, Vicki  
Wallace, Richard  
Ward, Brian  
Zahl, Adrian

## Eighth Term Essay Students

Besos, Debbie  
Cooke, Charles  
Desormeaux, Jean  
Eliadis, Pearl  
Flood, John  
Fogarty, Stephen  
Fraser, Ian  
Gilmore, Vonnie  
Hendlisz, Lise  
Howes, John  
Kasirer, Nicholas  
Kirby, Peter  
Macdonald, Murray  
Metcalf, Robert  
Shmidman, Sabina  
Sloan, Todd  
Villani, Peter  
Randall, Bruce

## Fourth Term Essay Students

Gerbec, Frank (OS)  
Kary, Joseph  
Pare, David  
Quon, Richard  
Roberts, Todd

## **McGill Law Journal/ Revue de Droit de McGill**

To those unable to attend the Journal's information session, held last Wednesday 27 March:

Anyone interested in working for the Journal this summer, on either the management or editorial boards, please sign your names on the list posted on the back of the door to the Journal office.

Aux étudiant(e)s qui n'ont pas pu assister à la séance d'information du mercredi, 27 mars:

Les étudiant(e)s intéressé(e)s à collaborer avec le comité de gestion ou le comité de rédaction de la Revue de Droit durant l'été sont prié(e)s de s'inscrire à la porte du bureau de la Revue.

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**Lost at Skit Night in the Dressing Room**--red copy book (Criminal Law notes). If found please bring to SAO.

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**Lost at Skit Night**--one black full length leather coat with red and gray plaid lining. A pair of black leather gloves were left in the pockets. If found please contact Jocelyn Claire at 844-0876.

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## **McGill Legal Aid Clinic**

The directors of the McGill Campus Legal Aid Clinic invite any student who wishes to volunteer some of his or her time this summer to drop by the clinic in the basement of the Student Union building anytime after May 13.

## **LSA Notice**

Please be advised that a list of LSA Committees will be posted this week. We encourage all interested persons to apply for these positions by filling out forms which will be available next week at SAO, and by signing up for interviews at the same time. Thank you for participating.

Prenez note que l'AED affichera des listes des comités de l'AED cette semaine. Nous encourageons toutes personnes intéressées dans un poste à remplir une formule d'application au bureau du SAO et au même temps de choisir une heure pour une entrevue. Merci pour votre participation.

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## **To All Students Planning to Conduct Interviews in Toronto This Summer!**

The interview period begins August 19, 1985, and firms begin calling prospective interviewees July 31 at 9:00 a.m. During the interview week there will be a 24-hour offer/acceptance period.

All students wishing to conduct interviews should pick up survey forms sent by the Law Society of Upper Canada. These are now available in the Placement Office. Any questions about this or the interview period should be directed to Dan Bilak.

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**Lost at Skit Night**--a pair of pink, white and blue leather boots. If you have 'em, can I get them back? Please turn them in to me or at SAO. Thanks!

**Holly Nickel**

## SOPINKA

## TRIAL TIPS

by Terry Pether

Well-known Toronto litigation lawyer and not so well-known former Montreal Allouettes football player, John Sopinka, offered some solid and practical advice to those students who assembled in the Moot Court last Friday afternoon to hear him discuss "trial tactics and ethics in the examination and cross-examination of witnesses."

"The first function of the witness is within the examination-in-chief," said Sopinka. This is the process where the basic facts of the case are set out for the court. There are two kinds of witnesses in this setting. The essential witness relates the important facts and he must be allowed to get his personality across to the jury; the lawyer should minimize his own presence.

The second type of witness, however, must have his personality masked by the lawyer's performance, for he is the witness that the lawyer unwillingly calls to avoid adverse inferences from a possibly obvious omission. The trick, Sopinka said, is to notice whom the jury is watching.

Mr. Sopinka always prepares his witnesses for the witness box before a trial. He took Nurse Susan Nelles, his most famous client, to a session of the Grange Inquiry in advance of her own appearance to familiarize her with the atmosphere of the hearings.

Although many lawyers write out the questions they plan to ask and the responses they expect to receive before their trial dates, Sopinka cautions against this because, he

believes, the questioning inevitably appears too rehearsed. Moreover, if the witness misses a cue, the whole performance falls flat. He advises a simple interview of the witness to find out what s/he does and does not know about the case.

Sopinka knows one lawyer who, having ascertained what offence his client has been charged with, does not bother acquiring the facts but simply presents his client with the available defences. The next day's interview inevitably reveals that the facts fit one of them. This is acceptable, says Sopinka. There are no set rules, but he cautions against conflicting testimony and asking witnesses to lie.

One should instruct witnesses to avoid hearsay, stay calm and refrain from fencing with counsel. Opposing counsel is more easily riled by a composed witness. The client should also be aware of the appropriate way to address a judge. Sopinka told the tale of a former client with a history of several visits to Magistrate's Court who consequently called Ontario High Court Justice Bardow, a stickler for decorum, "Your Worship". "Unless you want the judge to discern your past," Sopinka warned his client, "call him 'My Lord'". The artful gentleman later returned to the witness box only to address Mr. Justice Bardow as "Your Majesty"!

The second function of the witness is in cross-examination. "Learn the thrust of the opposing case", advises Sopinka. He knows of some lawyers who actually retain independent lawyers to prepare the oth-

er side of the argument. It is important to prepare the witness for questions s/he might face. Many lawyers neglect to do this, but the intimidating experience of the courtroom demands it.

When dealing with expert witnesses, one should file a curriculum vitae with the judge or jury. This allows one to merely lead the witness over the highlights as if he is being forced to humbly part with his knowledge. One should restrain experts who can alienate juries by sounding too lofty.

There are three purposes for cross-examination. First, to obtain helpful admissions. This should be done first for witnesses are less forthcoming after one has angered them in the pursuance of the second objective; namely, to contradict or impeach their testimony.

This is a job that requires fairness says Sopinka. In other words, witnesses should be confronted with the conflicting evidence so that they have an opportunity to rebut. This is not to imply, however, that it is unacceptable to let the witness "stew" for a while.

Sopinka personally prefers bringing in the heavy artillery at the outset so that the witness is reduced to a nervous wreck before he has a chance to relax. But he warns against being too aggressive when one is faced with a jury. They tend to see cross-examination as the pitting of a learned attorney against the "little guy".

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## EDITORIAL

With exams but a breath away and the reward of sultry summer days almost within the grasp of our imaginations, the realization has hit home that the end is indeed near. This past year has been an eventful one, to say the least. The initiation of orientation week for first year students proved to be a huge success. Interest groups ranging from the Clean Air Lobby to Women for Equality of Treatment all managed to have their voices heard. Forum National, the L.S.A. Speakers Series and the McGill Law Journal to name but a few, provided us with a diverse range of speakers canvassing issues of judicial, political and social importance.

The academic front has seen some interesting developments as well. The approval of the "University Marking Scheme" and the addition of the "D" grade were two of the more crucial changes achieved this year.

The 1985-86 Academic Year promises many challenges and opportunities. The redefinition of the National Programme is at the forefront of these changes. The need for constructive aids to achieve greater bilingualism is a sorely needed objective that should be grappled with, as was aptly proved by the "Special Contracts" situation this year.

These issues and many more will face the Faculty and the L.S.A. Council in the year to come. They are, however, pertinent to each and everyone of us, and only strong student participation, concern and interest can attain the solutions that best represent the views of the student body as a whole.

On behalf of the Quid Novi staff I would like to wish a successful exam period and enjoyable summer to all.

**Debbie Raicek**

### Zundel Cont'd from p. 1

but to keep the gate-crashers out."

Professor Cotler felt that the court had been used as an "international megaphone for the dissemination of Holocaust denial literature."

### The Holocaust: Judicial Notice Should Have Been Taken

The Zundel trial raised several important and controversial issues. The first was whether the court should have taken judicial notice that the Holocaust was a historical fact. Cotler stated that the taking of judicial notice depends on the subject matter

of the issue at bar and that its consequences upon the defendant's case are irrelevant. Generally, courts take judicial notice of facts which are "a matter of common knowledge which reasonable people would not dispute" and he believes that the Holocaust is such a fact.

He gave the example of West Germany, among other jurisdictions, where in 1982, the courts took judicial notice that the Holocaust was a matter of obvious historical fact which could not be litigated in a courtroom.

**Cont'd on p. 7**

# Mediation: A Litigation Alternative

by J. Kennedy

"Better a good bargain than a good fiat," stated Madame Justice S. Arbell, commenting on mediation (see article by S. Fisher in the last *Quid*, March 27 issue).

The Family Mediation Service was initiated in 1981 as a pilot project within the Palais de Justice by Chief Justice Deschênes. In 1984, with continuing support from Chief Justice Gold, its status was changed to that of a permanent service and a similar service established in Quebec. Its objectives include counselling those contemplating separation and assisting families in working out the problems inherent in separation and divorce. The great advantage of this approach is that it is holistic and particularly appropriate for parties who must remain in contact for child rearing or other purposes.

Two members of the Service addressed a group of faculty members and students on March 28th. Mme. Graziella Di Pace, responsible for the intake of clients, and Me. Andre Murray outlined the steps followed, steps which are common to any mediation process: they assist the parties in evaluating their positions, in defining and assessing the problem issues and in selecting options or "bargaining in the shadow of the law" while respecting mental health processes, said Me. Murray. His task is to give legal information as required in the development of a statement of the parties intentions. He then translates this "plan" into legal terms for submission to lawyers of all parties

involved. Statistics indicate that only 1% of the agreements have been substantially altered at this point.

Two striking features of the Service are its availability to all who live in the greater Montreal area at no cost, and its confidentiality, as protected by sec. 815 (3) CCP.

Mediation is expanding as a mode of delivery of legal services as evidenced by the comments of Mr. Justice Linden in the current issue of *Canadian Lawyer*. In his article entitled "Lawyers, Hang Up Your Guns. Let's Settle Things Peacefully," the president of the Law Reform Commission of Canada states: "Lawyers practising family law must try to bring their clients closer together, rather than driving them apart by making unreasonable demands." Extending the challenge to the criminal arena he adds: "The 'hired gun' theory of defence work is incompatible with the settlement emphasis that I am advocating... Good defence counsel will consider settlement in every case."

Me Murray will be an invited panelist at a conference on Mediation co-sponsored by the Law School of the University of Western Ontario to be held on April 12-13. This conference will bring together members of many disciplines from across the continent currently practising mediation techniques.

For Women in Law who sponsored Thursday's discussion come an affirmation from Linden, J.: "One promising development in reducing the combative spirit in the practice of law is

the entry of so many women lawyers into the profession."

## Morgentaler Cont'd from p. 1

Within two years, he was performing abortions for women from all over Canada and the US, in spite of the fact that in 1969 Canada had liberalized the law to allow abortions, but only in hospitals on the recommendation of a committee of doctors. But the liberalization was voluntary, sparse, and delays were great.

"I was living with my conscience, but like an outlaw." He was arrested for the first time in Montreal in 1970, but was acquitted in 1973 "by a Catholic French Canadian jury!"

The Crown appealed, and the Court of Appeal overturned the jury verdict, a Canadian first (and a UK and US impossibility). The Supreme Court agreed and Morgentaler began serving an 18 month sentence. While in jail, he was charged and acquitted by a jury once more, but was returned to prison to finish his first sentence.

In 1975, the "Morgentaler Amendment" was enacted to prevent the overturning of jury verdicts. But Morgentaler was tried and acquitted a third time and charged once more before the PQ was elected in 1976. It announced that -- in Quebec at least -- Canada's Criminal Code prohibition on abortion was obsolete and unenforceable.

"I thought the law had been dented or changed, but

Cont'd on p. 6

# LIFE AFTER SCHOOL

## The Institute of Comparative Law

by Marcel Banasinski

The Institute of Comparative Law of McGill was established in 1965 as an adjunct to the National Programme and is dedicated to the promotion of comparative studies and research in private, commercial and public law.

Operating within the Faculty of Law, it provides facilities for graduate work, advanced studies and research for highly qualified law graduates. All graduate students in Law except those registered in the Institute of Air and Space law come under the administrative direction of the Institute of Comparative Law.

The Institute initiates and supervises graduate programmes with a strong specialization in areas which are most suitable for comparative analysis and which reflect the strengths of the Faculty's staff and curriculum.

The programme of International Business Law was established in 1977 and it is unique in Canada. It consists of a comparative analysis of different legal systems whose rules have developed an international character. The Institute also offers a programme of Private Comparative Law and a concentration in Comparative Health Law.

The Institute is in the process of drawing together the diverse energies and human rights activities in the Faculty within a designated Human Rights Programme. The programme is not a new one; rather it is the rationalization and more effective presentation

of what is in effect an existing programme.

This programme will better identify and organize the existing course concentration in human rights, along with other diverse offerings having a human rights component. It is intended to promote the study of, and respect for, human rights at the domestic and international levels. The programme proposal could not have come at a more opportune moment with the advent of the Canadian Charter of Rights and Freedoms and the ensuing plethora of litigation.

The proposal has been approved by the Curriculum Committee and, in principle, by the Graduate Studies Committee. Final approval of the programme by Faculty Council is expected very shortly.

Candidates for admission to a Master's degree at the Institute must hold an undergraduate law degree with a high second class standing and have an interest in research. The requirements for the degree may be met by taking research oriented courses, particularly some upper year law undergraduate courses, followed by the submission of a thesis.

### Morgentaler Cont'd from p. 5

I was wrong." Sixty percent of the abortions now being freely performed in Montreal are on women from outside Quebec, especially from the Maritimes and the prairies.

On to "Phase 2": Morgentaler opened clinics in Toronto and Manitoba two years ago. In Winnipeg, the staff of nine was immediately arrested and

charged. Soon after, a police squad of thirty officers closed down the Toronto clinic.

"This time it was a WASP jury in Toronto, and nobody thought they'd do it," said Morgentaler. But they did in November 1984. The three acquitted staff doctors reopened the Toronto clinic. It has since been the site of continuous picketing by his foes, "whipped to a frenzy," claims Morgentaler, by a pastoral letter by that city's Cardinal Carter. Bomb and death threats have necessitated 24 hour protection by police for the clinic and the doctor.

"How much more proof do you need," he asks, "that this is a stupid, immoral, and unsafe law?" Answer (Manitoba Government): "Some." Two weeks ago, Morgentaler reopened the Winnipeg clinic, and was immediately arrested and charged again, interrupting an abortion in progress. Declares Morgentaler: "The battle is not yet won. We face a shrill, well-organized movement that has become violent in the US. I have received all kinds of threats, but I'm going to keep the clinic open no matter what." The law is also discriminatory, he continues: "If men got pregnant, abortion would be a sacrament."

Morgentaler is currently fundraising to replace \$10,000 worth of equipment confiscated in the raid, and has announced that he will defy and fight the "illegal" 7-day suspension of his medical licence by the Manitoba College of Physicians.

"Isn't abortion murder?" asks a young student. Morgentaler carefully explains his views of viability and the threshold of humanity.

Cont'd on p. 7

# Placement Centre

## Ontario

**Toronto:** An updated Articling Questionnaire from the firm of Strathy, Archibald & Seagram has been received and is now posted in the Placement Centre. Please refer to same for information on this firm.

The firm of Robins, Appleby, Kotler, Banks & Taub is looking for articling students for the 1986/87 articling year. Second year common law students are invited to forward applications to:

Mr. Leor Margulies  
Robins, Appleby, Kotler,  
Banks & Taub  
130 Adelaide Street West,  
Suite 2500, P.O. Box 102  
Toronto, Ontario  
M5H 2M2

The articling brochure for this firm is available for perusal in the Admissions office. (Refer to posting #90).

Applications have been received for the Law Society of Upper Canada's Bar Admission Course. An outline of the procedures to be followed for making such application is also available. The forms may be obtained through the Student Affairs Office.

## Quebec:

Leigh Navigation Systems Ltd. (LNS) of Pointe Claire is seeking a third year LL.B. student to work on special projects during the summer of 1985. Projects include preparing a Confidential Offering Memorandum which describes the company's business, an Investment Analysis which details the company's financial projections, and a Marketing plan which outlines the products and marketplace

LNS deals in. Although a previous degree in engineering is not essential, an ability to understand technical brochures is required. This position should be of particular interest to LL.B. students interested in corporate law. Ability to work in English, French and Spanish would be an asset. Interested students should forward their resumes and salary request to Mr. A. Lemieux, c/o the Admissions office no later than 12:00 p.m. April 4th. (Refer to posting #92).

LYRG, an ad hoc branch of LIRG, will be interviewing candidates for summer research over the next few weeks. There will be work for up to 5 researchers on the definition and limitation of youth on the basis of age in Quebec and federal law. Interested applicants should submit a two-to three-page letter to SAO before April 15. Address questions to Sandra Stephenson (482-2963).

## Morgentaler Cont'd from p. 6

But he then goes to the heart of the great difference between him and his opponents. "If you believe it's murder, practice your belief." He is addressing a timeless issue, whether the morals of some should be the law for all. In the case of abortion in Canada, it is clear the issue will not be settled easily or soon.

## Zundel Cont'd from p. 4

## Crown Attorney's Prosecution Faulty

On the issue of judicial notice, he castigated the Crown Attorney, Peter Griffiths, for two glaring mis-

takes. The first concerned the failure of Mr. Griffiths to make a motion that the court take judicial notice, at the outset of the trial, that the Holocaust was a historical fact. The second mistake involved the introduction by Mr. Griffiths of a motion that the court take judicial notice of the Holocaust after he had presented the evidence. Professor Cotler noted that the court was correct in refusing to take judicial notice of the Holocaust after the presentation of the Crown's evidence, because it would then have denied Mr. Zundel a fair trial.

Professor Cotler stated that the cause of the mistakes was two-fold. First, the Attorney General of Ontario did not comprehend the national and international ramifications of the trial. Otherwise, he would not have entrusted one lawyer to the case on a part-time basis. Moreover, the lawyer specialized in breaking and entering cases, and was overwhelmed by such an immense responsibility, in light of the difficulty of adducing evidence and the heavy burden of proof. Secondly, Mr. Griffiths was ill-prepared and should have warned the Attorney General that he required more assistance.

Professor Cotler is concerned that, if Canadian courts fail to take judicial notice of the Holocaust, they will not only ignore international precedents but will also give the impression that the Holocaust is not a historical fact.

He hoped that in the upcoming trial of Jim Keegstra, the Attorney General of Alberta will ask the court to take judicial notice of the Holocaust to prevent the re-enactment of the "macabre spectacle" of

Cont'd on p. 8

**Zundel**  
**Cont'd from p. 7**

the Zundel trial.

**Zundel Calls Deportation to Germany "Paradise"**

A second issue raised by the trial is Zundel's possible deportation to West Germany. Under Canadian law a landed immigrant is automatically liable for deportation if he is convicted of a criminal offence and is sentenced to six or more months in prison. Mr Zundel is a landed immigrant and since he has been sentenced to fifteen months in jail he is liable for deportation. However, Professor Cotler conceded that the deportation hearing would not take place until Mr. Zundel had exhausted all his recourses of appeal.

Professor Cotler was vexed by Mr. Zundel's statement that "going to West Germany is like returning to paradise." Mr. Zundel apparently suggested that West Germany would be receptive to his racist propaganda. In fact, West Germany presently has the toughest criminal legislation in the world concerning the publication of Holocaust denial literature. In addition, it possesses civil remedies for Holocaust survivors against the disseminators. Professor Cotler felt that it would be "poetic justice" if Zundel were deported to West Germany.

**Nazi War Criminals**

The third issue concerned the trial and conviction of Nazi war criminals in Canada. At the trial Zundel stated that the Holocaust hoax began with the Nuremburg trials because Jewish advisers were instrumental in its outcome. Therefore, Zundel claims that because the Holocaust was a hoax, there are no crimes and, therefore, no criminals.

Professor Cotler stressed that it was essential for Canada to try and convict Nazi war criminals. The Canadian government has, year after year, reaffirmed its position at the United Nations that it would apprehend, try and convict war criminals, but has failed to do so. This behaviour merely serves to reinforce Zundel's claim that there are no Nazi war criminals and that their prosecution would in effect be a "persecution". The conviction of Nazi war criminals is intrinsically bound up with the repudiation of Holocaust denial literature and is an affirmation of the Holocaust's existence, according to Professor Cotler. Moreover, Canada's record of refugee admission during and after World War II was appalling. It was easier for a Nazi to be admitted in Canada than it was for a Jew. A strong onus is placed on the Canadian government to vindicate itself and bring Nazi war criminals to trial.

The final issue concerns the freedom of speech under Section 2 of the Canadian Charter of Rights and Freedoms.

**Freedom of Speech v. Racism**

Professor Cotler believes that the prevailing attitude in Canada concerning freedom of speech is a simplistic one based on the United States' First Amendment theory. Instead of determining what type of speech should be regarded as protected speech, the courts view all forms of speech as protected speech and rely on Section 1 of the Charter, the limitation clause, to determine if the limitation of the speech in question is reasonable and is "prescribed by law as can be demonstrably justified in a free and democratic society."

Professor Cotler stated that racist propaganda should not qualify as protected speech. Freedom of speech was intended to advance the democratic growth of society and the autonomous growth of the individual; it was not intended to allow the dissemination of hate literature.

He proposed three reasons why dissemination of hate literature should not be protected speech. First, sixteen European communities, including France and West Germany, have decided that it is an assault on human dignity and therefore does not qualify as protected speech. Section 1 of the Charter allows Canadian courts to look at other democratic societies for guidance. Secondly, there is an issue of equality. Empirical data has shown that the promotion of contempt towards an identifiable group over a period of time results in the degradation of the status of that group in society. Lastly, Canada is a signatory to several international treaties and covenants which prohibit the dissemination of hate literature.

Professor Cotler reiterated his position that the courtroom should not serve as the forum for "Fellini type litigation". The prosecution of Holocaust denial literature disseminators serves to bring the offender out of obscurity and offer him an international audience. It makes him a martyr in the eyes of the Holocaust Revisionist Movement.

Professor Cotler suggested that the solution to racist propaganda is the development of a "rights consciousness" in society. It is the responsibility of the people, and law stu-

**Cont'd on p. 9**

## Zundel Cont'd from p. 8

dents in particular, to strike out against injustice, be it Holocaust denial literature or Apartheid in South Africa. Each one of us can make a difference, as demonstrated by the Swedish non-Jew who, during World War II, saved more Jews from extermination than any single government. He made the poignant remark that "evil will triumph if enough good people do nothing." There are many good people in the world and it is our responsibility as law students to lead the way in making the world a better place for us all.

## Sopinka Cont'd from p. 3

The third objective follows naturally from the first two; it is to create an appropriate impression of the witness on the jury. Sopinka himself created a good impression in his talk, which was loaded with many delightful anecdotes and helpful hints, including the golden rule: "Always keep an eye on the jury to see whether they are with you or offended by you, and adjust your performance accordingly."

The turn out last week was good, but those students who could not make it missed a most useful and entertaining lecture and one that John Sopinka clearly enjoyed presenting.

**Funds laundered,  
squandered or  
absconded with.**

# If Lawyers Could Advertise

The demand for lawyers in private practice in Quebec and Ontario seems to be on the decline. Many articling students are not being rehired by their law firms, not because they are incompetent, but simply due to the firm's financial constraints: "Business is slow".

Is this what we have to look forward to upon graduation? Of those students who have not found permanent jobs, only the lucky ones may opt for a Masters Degree in England. Others are forced to accept positions at small firms to save face, and ultimately, to avoid unemployment.

It has been suggested that if lawyers could advertise they could increase demand for their services.

Me Richard Maroist of Quebec City placed 410 advertisements for his legal services in city bus-

es, on the radio, and in the newspapers. The Quebec Bar Association fined him for violating its no-advertising rule, and obtained a temporary injunction to stop the advertising. In December 1985 he was fined \$2,000 by the Superior Court for ignoring the temporary injunction.

Maroist argues that the rule against advertising violates his right to freedom of expression guaranteed by s.2 of the Canadian Charter of Rights and Freedoms. Nevertheless, the Bar Association has just recently obtained a permanent order in the Quebec Superior Court against Maroist.

Until this issue goes before the Supreme Court of Canada, here are a few catchy slogans mentioned in the April 1984 edition of Toronto Life Magazine.

## Shake and break.

{Divorces our  
speciality.}

The next time you find  
yourself in conflict with  
the law, simply call J.J.  
Jacobs at 123-4567. And  
we'll habeas your corpus.  
Six smart lawyers.  
No waiting.

**J.J. JACOBS**

**Your ex-brother in law.**

## Get the law off your back and on your side.

The next time you find  
yourself in conflict with  
the law, simply call J.J.  
Jacobs at 123-4567. And  
we'll habeas your corpus.  
Six smart lawyers.  
No waiting.

**J.J. JACOBS**

**Your brother in law.**

# Richard Janda Reflects

by Richard Janda

After four years at one institution, one begins to feel like a sentence is being served out -- especially around and about winter of the last year. But one must admit that serving time in the National Programme has had its small joys. Watching one's fellow classmates turn into arch examples of yuppiedom -- indeed watching oneself turn into a junior corporate sell-out -- brings great pleasure. One is happy to see that Law School brings us down to earth and make us impervi-

ous to the temptations of "causey" idealism. One is content to note that money assumes more and more importance. One is gratified to observe that wardrobes reflect an evolving and refined sensibility. The National Programme is highly effective bourgeoisification.

I hope things at McGill continue to improve. We have reached a point where it is evident that nobody on Faculty can agree what the National Programme is about. This is a matter of public record at Faculty Council. And it's healthy.

It means that there is a great deal to argue about and to cause ferment for years to come. Those of us working in the LSA this year have witnessed the occasional dialogue of the deaf among our professors and we take heart. It means that we're not so badly off ourselves. So after four years of rehabilitation we are entitled to be released on our fellow citizens. And we leave with the insight that even if we don't know what we're doing, we do know that everyone else is in the same boat.

## If Lawyers Could Advertise

### Wills made or thwarted.

The next time you find yourself in conflict with the law, simply call J.J. Jacobs at 123-4567. And we'll habeas your corpus. Six smart lawyers. No waiting.

**J.J. JACOBS**

Your brother in law.

### Beat the rap for less.

Planning a heist, stick-up or break-in? Retain us now.

Laws bent, broken or circumvented.

Why wait? Litigate!

All major credit cards accepted.

(They must be your own.)

This is the last issue of the Quid for this year. The Quid staff wishes everyone good luck on their exams.

## ET LES AUTRES...

L'année universitaire qui s'écoule a été riche en conférences de toutes sortes. Un élément commun à toutes cependant, un public fort agité.

A l'occasion de la conférence de l'Honorable Pierre-Marc Johnson lundi dernier, il en aurait fallu de peu pour que l'on se croit sur la place publique. Un va-et-vient continu dans la salle tout au long de l'exposé. Dommage, le "Moot Court" n'est pas encore devenu l'agora de la Faculté de droit.

A ceux qui hésitent à assister à une conférence, demeurez-donc debouts près de la porte. Aux retardataires, ayez la délicatesse d'y rester également. L'orateur lui-même et les autres participants apprécieront certainement votre plus grande considération à leur égard.

Diane Brais  
BCL I